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Attorney for Defendant:  
**Tinoah Ardaniel Bragg**

**EASTERN DISTRICT OF WASHINGTON  
IN THE UNITED STATES DISTRICT COURT  
(Honorable W. FREMMING NIELSEN)**

UNITED STATES OF AMERICA,	)	NO. CR-13-0008-WFN-42
	)	
Plaintiff,	)	
	)	
TINOAH ARDANIEL BRAGG,	)	SENTENCING MEMORANDUM
	)	
Defendant.	)	
	)	

TO: MICHAEL C. ORMSBY, United States Attorney  
AND TO: STEPHANIE VAN MARTER, Assistant United States Attorney;  
AND TO: RUSSELL SMOOT, Assistant United States Attorney  
AND TO: BRENDA G. CHALLINOR, United States Probation Officer

1 Tinoah Ardaniel Bragg, by and through her attorney, Ken Therrien, hereby  
2 submits this sentencing memorandum in preparation for her sentencing hearing  
3 scheduled for October 29, 2014 at 10:30 a.m. in Spokane, Washington.

## 4 **I. STATUS OF THE CASE**

5 On March 31, 2014 Tinoah Ardaniel Bragg entered a plea of guilty to Count  
6 Two of the Indictment charging her with conspiracy to distribute a mixture or  
7 substance containing a detectable amount of oxycodone hydrochloride an opiate  
8 and Schedule II controlled substance pursuant to 21 U.S.C. § 812 ( c ), specifically  
9 in form of pills containing oxycodone hydrochloride, in violation of 21 U.S.C. §  
10 841 (a)(1)(C), all in violation of 21 U.S.C. §846.

11 Ms. Braggs submits that her base level offense is 32 and minus a 2 level  
12 reduction for specific offense characteristics, would reduce her offence level to 30.  
13 Minus 2 for adjustment for role in offense and minus 2 for acceptance of  
14 responsibility, would reduce her offense level to 26. Ms. Bragg submits that  
15 according to USSG §3E1.1(b), as the defendant qualifies for a decrease under  
16 subsection (a), the offense level determined above is 16 or greater, and the  
17 defendant has assisted authorities in the investigation or prosecution of the  
18 defendant's own misconduct by timely notifying authorities of the intention to  
19 enter a plea of guilty, thereby permitting the government to avoid trial preparation  
20 and permitting the Court to allocate its resources efficiently, an additional 1-level  
21 reduction is applied. Ms. Bragg's adjusted base level offense would be 25.

22 With the imposition of the proposed retroactive amendment to USSG §  
23 2D1.1(c) Ms. Bragg's base offense level would be further reduced another two  
24 levels resulting in a base offense level of 23. An additional two level reduction  
25 under 18§ 3553(f) and agreed to in paragraph 10(b) of the plea agreement would  
26

1 result in a final adjusted base level offense of 21. With a Criminal History  
 2 Category of 0, Ms. Bragg's standard range would be 37 to 46 months. Pursuant to  
 3 paragraph 11(1) of the plea agreement, the Government will recommend not less  
 4 than a twelve (12)-month term of imprisonment and no more than (24) months.

## 5 6 7 **II. SENTENCING MEMORANDUM**

8  
 9 18 § USC 3553 sets out factors to be considered by the Court when  
 10 determining what sentence would be sufficient, but not greater than necessary, to  
 11 comply with the purposes of the statute. While no one factor is necessarily more  
 12 determinative than the other, 18 § USC 3553 provides a sequential list of factors to  
 13 assist the sentencing Court in its analysis.

14  
 15 The District Court may not presume that the guideline range is reasonable,  
 16 nor should the guideline factors be given any more or less weight than any other.  
 17 **United States v. Carty**, 520 F.3d 984, 991 (9<sup>th</sup> Cir. 2008) en banc, citing **Rita**<sup>1</sup>,  
 18 **Gall**<sup>2</sup>, and **Kimbrough**<sup>3</sup>. The guidelines are but one factor to be taken into  
 19 account in arriving at an appropriate sentence. **Id.**

### 20 21 **Nature of the Offense**

22  
 23 Tinoah Bragg became involved in the ETGC Oxycontin drug distribution  
 24 activity as one of the (18) couriers who would transport Oxycontin and money  
 25 back and forth from Los Angeles and Spokane. Ms. Bragg became involved  
 26 through her association with a person she met when she was obtaining her  
 27

28  
 29 <sup>1</sup> Rita v. United States, 127 S.Ct. 2456 (2007)

30 <sup>2</sup> Gall v. United States, 127 S.Ct. 2833 (2007)

1 cosmetology license at Healthy Hair Academy. This individual pulled, Ms. Bragg  
2 into the conspiracy by initially asking her to travel to Spokane and transport  
3 money back from Spokane to Los Angeles. Ms. Bragg knew doing so probably  
4 involved transportation of illegal drug money. Once Ms. Bragg had transported  
5 the money that individual made more demands on Ms. Bragg. This resulted in her  
6 becoming more involved in the conspiracy. The individual who involved Ms.  
7 Bragg was ultimately arrested and indicted and is identified as a mid-level  
8 organizer in the drug organization. Ms. Bragg was paid \$500.00 a trip and at best  
9 netted \$2000.00  
10

### 11 **History and Characteristics of Tinoah Bragg**

12 Tinoah Bragg has no prior criminal history and once she is sentenced on  
13 October 29, 2014 she will. Ms. Bragg never knew her biological father who was  
14 killed in a motorcycle accident shortly before her birth. Ms. Bragg cares for her  
15 mother who previously had suffered a stroke and recently had a kidney transplant.  
16 Tinoah made preparations for donating a kidney to her mother but fortunately, a  
17 kidney was located for mother from an anonymous donor.  
18

19 Ms. Bragg still has contact with her step-father, even though the end of the  
20 marriage resulted from her step-father's decision to end the marriage due to his  
21 inability to address Ms. Bragg's mother's significant medical and caregiver needs.  
22

23 When she was around 20 years old, Tinoah had a daughter named who  
24 presently is 7 years old. The relationship with the biological father was marked  
25 with multiple occasions of physical and emotional abuse. Several of the physical  
26 assaults, resulted in treatment at Cedars Sinai Hospital on at least two (2) separate  
27  
28  
29

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30 <sup>3</sup> Kimbrough v. United States, 128 S.Ct. 558 (2007)

1 occasions. Tinoah is now in a stable relationship and has a 13 month daughter with  
2 the father of her second child.

3 Tinoah is a hard- worker. Tinoah presently works 30-35 hours a week at  
4 Starbucks, cuts hair on the side and on her off days works at another busioness as  
5 a cashier as well. Tinoah presently has plans to start her own on-line business.  
6 Tinoah has managed to avoid the drug abuse and self-destruction that plagues  
7 many people of her economic background and circumstances.  
8

9  
10 **Promote Respect for the Law, Afford an Adequate Deterrence and**  
11 **Protection of the Public**  
12

13  
14 The Court need not impose any time of incarceration to satisfy these factors.  
15 Tinoah knows the mistake she has made and deeply regrets the pain and  
16 embarrassment she has caused not only herself but her family and loved ones.  
17

18 **Provide Vocational and Educational Training**  
19

20 This sentencing factor does not apply to Tinoah's situation. Tinoah  
21 obtained a cosmetology license from Heathy Hair Academy and has exhibited she  
22 has the essential skills and work ethic to allow her to succeed in life if given the  
23 opportunity to do so.  
24

25  
26 **III. CONCLUSION**

27 18 USC § 3553 instructs the sentencing court to impose a sentence  
28 sufficient but not greater than necessary to comply with the purposes set forth in  
29 paragraph 2 of its subsection. Based upon the information provided in this  
30

1 sentencing memorandum, Tinoah Ardaniel Bragg respectfully requests that any  
2 sentence imposed be completed in a noncustodial setting.

3  
4 DATED this 13<sup>th</sup> day of October, 2014.

5 Respectfully submitted by:

6  
7 /s/Ken Therrien

8 KEN THERRIEN, WSBA #20291  
9 Attorney for Tinoah Ardaniel Bragg  
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**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury of the laws of the State of Washington that on October 13, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send electronic notification of such filing to:

- **STEPHANIE VAN MARTER**, Assistant United States Attorney
- **RUSSELL SMOOT**, Assistant United States Attorney
- **BRENDA G. CHALLINOR**, United States Probation Officer.

/s/ Ken Therrien

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